

LEONARDO M. RAPADAS
United States Attorney
ROSETTA L. SAN NICOLAS
Assistant U.S. Attorney
Suite 500 Sirena Plaza
108 Hernan Cortez Ave
Hagatna, Guam 96910
PHONE: 472-7332
FAX: 472-7334

FILED
DISTRICT COURT OF GUAM

MAR 27 2008 ^K

JEANNE G. QUINATA
Clerk of Court

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SONG JA CHA,
IN HAN CHA,
SAKNIN A. WERIA,
FREDA ESEUN,

Defendants.

CRIMINAL CASE NO. 08-00008

**MOTION TO REQUIRE THE
DEFENDANT TO SUPPLY
EXEMPLARS OF HANDWRITING**


COMES NOW the United States of America, by its undersigned counsel, and moves this Honorable Court for an order directing that the defendants, SONG JA CHA, IN HAN CHA, SAKNIN A. WERIA, and FREDA ESEUN, be escorted to and from the Office of the Federal Bureau of Investigation (F.B.I.) to submit to exemplar testing and to furnish exemplars of their handwriting to agents of the Federal Bureau of Investigation, for comparisons with handwriting to be used during the preparation for and during the trial of the above case. The United States Supreme Court has stated that the Fifth Amendment privilege against self-incrimination offers no protection against compulsion to submit to fingerprinting, or against compulsion to write for identification. Schmerber v. California, 384 U.S. 757, 764 (1966). The Fifth Amendment protects only against compulsory production of testimonial evidence; it does not protect against

1 compulsory production of real or physical evidence. Therefore, physical characteristics such as
2 prints and handwriting are outside the protection of the Fifth Amendment. Obtaining a
3 handwriting exemplar is not a seizure within the meaning of the Fourth Amendment. A person
4 has no expectation of privacy in handwriting because it is a physical characteristic which is
5 constantly exposed to the public. So long as the initial seizure of the person is reasonable,
6 compelling production of a handwriting exemplar is permissible. See United States v. Mara, 410
7 U.S. 19 (1973).

8 DATED this 25th day of March, 2007.

9
10 LEONARDO M. RAPADAS
United States Attorney
Districts of Guam and NMI

11
12 By:


13 ROSETTA L. SAN NICOLAS
Assistant U.S. Attorney
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28